

**5098. Adulteration and misbranding of creme de apricot and ferro-china bitters. U. S. \* \* \* v. Thomas Martino, agent of Filemina Martino, trading as M. Martino. Plea of guilty. Fine, \$200. (F. & D. No. 7342. I. S. Nos. 1445-k, 22471-h.)**

On July 10, 1916, the United States attorney for the Eastern District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against Thomas Martino, agent of Filemina Martino, trading as M. Martino, Philadelphia, Pa., alleging shipment by said defendant in violation of the Food and Drugs Act:

(1) On or about December 12, 1914, from the State of Pennsylvania into the State of Connecticut, of a quantity of creme de apricot, which was adulterated and misbranded. This article was labeled: (On neck label) "Grande Fabbrica di Liquori Italia" (on main label) (design of bowl of fruit) "Creme de Apricot M. Martino, Philadelphia, Pa. Purity Guaranteed."

Analysis of a sample of the product by the Bureau of Chemistry of this department showed the following results:

Alcohol (per cent by volume)-----	19.16
Ash (gram per 100 cc)-----	0.01
Flavor: Anise.	
Color: Amaranth, with a trace of fast red E.	
Phosphoric Acid: None.	

This product is an artificially colored and flavored cordial prepared to imitate apricot cordial.

Adulteration of the article was alleged in the information for the reason that a substance artificially colored and flavored in imitation of apricot liquor was substituted, in whole or in part, for creme de apricot, which the article purported to be; and for the further reason that said article was an inferior product, to wit, a substance flavored in imitation of apricot liquor, and had been colored in a manner whereby its inferiority to genuine apricot liquor was concealed.

Misbranding was alleged for the reason that the following statement regarding the article and the ingredients and substances contained therein, "Creme de Apricot," was false and misleading in that it indicated to purchasers thereof that the article was an apricot liquor, and for the further reason that it was labeled "Creme de Apricot" so as to deceive and mislead the purchaser into the belief that it was an apricot liquor, when, in truth and in fact, it was not an apricot liquor, but was, to wit, a substance or liquor artificially colored and flavored in imitation of apricot liquor. Misbranding was alleged for the further reason that the product was an imitation product, to wit, a substance artificially colored and flavored in imitation of apricot liquor and was offered for sale under the distinctive name of another article, to wit, creme de apricot. Misbranding was alleged for the further reason that the following statement regarding the article and the ingredients and substances contained therein, appearing on the label aforesaid, to wit, "Grande Fabbrica di Liquori Italia," was false and misleading, in that it indicated to purchasers thereof that said article was a product of the Kingdom of Italy; and for the further reason that it was labeled, "Grande Fabbrica di Liquori Italia," so as to deceive and mislead purchasers into the belief that it was a product of the Kingdom of Italy, when, in truth and in fact, it was not, but was a domestic product and had been manufactured in the United States of America, to wit, the city of Philadelphia, State of Pennsylvania. Misbranding was alleged for the further reason

that the article consisted of food in package form, and the quantity of the contents was not plainly and conspicuously marked on the outside of the package in terms of weight, measure, or numerical count.

(2) On or about July 15, 1914, from the State of Pennsylvania into the State of Maryland, of a quantity of ferro-china bitters which were adulterated and misbranded. This article was labeled in part: (On neck label) "F. China Italia" (circles bearing the words "Anti Malanno.") (On small label above main label) " \* \* \* Ferro-China Italia." (On main label) "Ferro-China-Italia. Iron Chincona Bitters Strictly Distilled from Roots, Herbs and Seeds \* \* \* Guaranteed under the Food and Drugs Act, June 30, 1906. Serial No. 49022." "F. China Italia" appears twice across main label (circles across face of label, each one bearing the words "Anti Malanno"). (Blown in bottle) "Ferro-China."

Analysis of a sample of the product by the Bureau of Chemistry of this department showed the following results:

Alcohol (per cent by volume)-----	24.0
Sugar (grams per 100 cc)-----	10.35
Glycerin (gram per 100 cc)-----	0.06
Iron oxid as $\text{Fe}_2\text{O}_3$ (gram per 100 cc)-----	0.012
Alkaloid: Merest trace.	

It is a hydroalcoholic solution, slightly bitter in taste, acid in reaction, and colored with caramel.

Adulteration of the article considered as a drug was alleged in the information for the reason that it was sold as and for ferro-china bitters, containing substantial and significant amounts of iron and cinchona, and its strength and purity fell below the professed standard and quality under which it was sold in that it contained the merest traces of iron and cinchona.

Misbranding of the article considered as a food was alleged for the reason that the following statement regarding it and the ingredients and substances contained therein appearing on the label aforesaid, to wit, "Ferro-China-Italia," was false and misleading in that it indicated to purchasers thereof that the article was a product of the Kingdom of Italy; and for the further reason that it was labeled, "Ferro-China-Italia," so as to deceive and mislead purchasers into the belief that it was a product of the Kingdom of Italy, when, in truth and in fact, it was not, but was a domestic product and had been manufactured in the United States of America, to wit, the city of Philadelphia, State of Pennsylvania. Misbranding was alleged for the further reason that the following statement regarding the article and the ingredients and substances contained therein, appearing on the label aforesaid, to wit, "Iron Chincona Bitters," was false and misleading, in that it indicated to purchasers thereof that the article contained substantial and significant amounts of iron and chincona; and for the further reason that it was labeled "Iron Chincona Bitters," so as to deceive and mislead purchasers into the belief that it contained substantial and significant amounts of iron and cinchona, when, in truth and in fact, it did not, but did contain, to wit, the merest traces of iron and cinchona.

On August 4, 1916, the defendant entered a plea of guilty to the information, and the court imposed a fine of \$200.

CLARENCE OUSLEY, *Acting Secretary of Agriculture.*